

REMARKS

In response to the Office Action mailed November 29, 2005, Applicants have amended claim 47 without prejudice and solely for the purposes of clarity. Support for the amendment can be found throughout the specification as filed. No new matter has been added. Claims 48-51 have been canceled. It is urged that support for all the above amendments may be found throughout the specification as originally filed and that none of the amendments constitutes new matter. It should also be noted that the above amendments are not to be construed as acquiescence with regard to the Examiner's rejections and are made without prejudice to prosecution of any subject matter removed or modified by this amendment in a related divisional, continuation or continuation-in-part application.

Further, Applicants submit herewith 23 sheets of drawings for approval. The drawings have been amended only for the purposes of clarity and to conform with C.F.R. § 1.84. No new matter has been added.

Favorable reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks. Following the amendments, claims 1, 6, 7, and 47 are pending in the application.

Claim rejections under 35 U.S.C. § 112, first paragraph (written description)

Claims 47-51 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. In particular, the Action contends that there is no support for the "composition" of claim 47 or the immunogenic compositions of claims 48-51. The Action asserts that while the specification discloses vaccines with the ingredients recited in claims 48-51, there is no disclosure of non-vaccine compositions. Further, concerning claim 47, the Action alleges that the specification discloses a pharmaceutical composition with the ingredients recited in the claim but does not disclose a composition per se with said ingredients.

Applicants respectfully traverse the rejection on the following grounds. Applicants note that "The claimed subject matter need not be described in *haec verba* to satisfy

the written description requirement. The application need not describe the claim limitations exactly, but only so clearly that one having ordinary skill in the pertinent art would recognize from the disclosure that applicant invented the subject matter including such limitations". (*In re Herschler*, 591 F.2d 693, 200 U.S.P.Q. 711, 717 (C.C.P.A. 1979). Moreover, Applicants submit that this standard is specifically indicated by the U.S.P.T.O. in the Written Description Guidelines (see *Guidelines for Examination of Patent Applications Under the 35 U.S.C. § 112, para. 1, "Written Description" Requirement* - Federal Register: January 5, 2001 (Volume 66, No. 4, pgs. 1099-1111)). For example, the Guidelines state at page 1106, first column:

If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description requirement is met (emphasis added).

As such, Applicants submit that the skilled artisan would readily appreciate in view of the instant disclosure that Applicants were in possession of the claimed invention at the time the application was filed.

Notwithstanding the above remarks, without acquiescing to the rejection, and solely to expedite prosecution, Applicants have amended claim 47 to recite "pharmaceutical composition" and have canceled claims 48-51. Applicants reserve the right to prosecute any subject matter removed or modified by this amendment in a related divisional, continuation or continuation-in-part application. Applicants submit that the rejection has been obviated and may be properly withdrawn.

In view of the above amendments and remarks, claims 1, 6, 7, and 47 are now believed to be in condition for allowance. A good faith effort has been made to place the application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at 206-622-4900 to resolve same.

Application No. 09/684,361
Reply to Office Action dated November 29, 2005

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

 44,614
for

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JAU:mcs

Enclosure:

23 Sheets of Replacement Drawings (Figures. 1-19)

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Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 1-19. These sheets, which include Figs. 1-19, replace the original sheets including Figs. 1-19.

Attachment: Twenty-three Replacement Sheets